

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificates to operate a water and wastewater utility in Charlotte and DeSoto Counties by Lake Suzy Utilities, Inc.

DOCKET NO. 970657-WS

In re: Application for amendment of Certificates Nos. 570-W and 496-S to add territory in Charlotte County by Florida Water Services Corporation.

DOCKET NO. 980261-WS

ISSUED:

COMMISSION STAFF'S PREHEARING STATEMENT

Pursuant to Order No. PSC-99-2047-PCO-WS, issued October 20, 1999, the Commission Staff (Staff) files its prehearing statement as follows:

A. Witnesses

Staff does not intend to call any witnesses.

B. Exhibits

Staff does not intend to sponsor any exhibits, but reserves the right to use exhibits for the purpose of cross-examination.

C. Basic Position

The information gathered through discovery and prefiled testimony indicates, at this point, that Lake Suzy Utilities, Inc. (Lake Suzy) has the financial and technical ability to serve the requested territory; however, there is a question regarding whether there will be a duplication of service by Florida Water Services Corporation (FWSC) in DeSoto County. The information further indicates that although FWSC appears to have the financial ability to serve the territory requested in Charlotte County, it is unclear whether FWSC will have the capacity to serve that area. The final determination of whether it is in the public interest to grant either Lake Suzy's or FWSC's application cannot be made until the evidence presented at hearing is analyzed.

AFA \_\_\_\_\_  
APP \_\_\_\_\_  
CAF \_\_\_\_\_  
CMU \_\_\_\_\_  
CTR \_\_\_\_\_  
EAG \_\_\_\_\_  
LEG \_\_\_\_\_  
MAS 3 \_\_\_\_\_  
OPC \_\_\_\_\_  
RRR \_\_\_\_\_  
SEC 1 \_\_\_\_\_  
WAW \_\_\_\_\_  
OTH \_\_\_\_\_

DOCUMENT NUMBER-DATE

00044 JAN-38

FPSC-RECORDS/REPORTING

D. Issues of Fact, Law and Policy

The following are issues identified by Staff and its positions on these issues. Staff's positions are preliminary, are based upon materials filed by the utility or obtained through discovery and are intended to inform the parties of Staff's preliminary positions. Staff's final positions will be based upon an analysis of the evidence presented at the hearing.

**ISSUE 1:** When will service to the areas Lake Suzy and FWSC seek to add to their certificates be required?

**POSITION:** In Charlotte County, it appears that the need for service is immediate. In DeSoto County, no position pending further development of the record.

**ISSUE 2:** Does Lake Suzy/FWSC have the financial ability to serve the requested territory?

**POSITION:** It appears that both Lake Suzy and FWSC have the financial ability to serve the requested territory.

**ISSUE 3:** Does Lake Suzy/FWSC have the plant capacity and technical ability to serve the requested territory?

**POSITION:** Lake Suzy has both the capacity and technical ability to serve the requested territories in Charlotte and DeSoto counties. With respect to Charlotte County, it appears that FWSC has the technical ability to serve the disputed area. However, it is unclear at this time whether FWSC has the capacity to serve that area due to a contractual dispute with Charlotte County.

**ISSUE 4:** Is Charlotte County, through the Charlotte County Utilities Department, ready, willing and able to provide service to the area in question?

**POSITION:** At this time, Charlotte County's ability to provide wastewater service to the area is in dispute, because FWSC has alleged that it is the owner of the wastewater line abutting the territory which

COMMISSION STAFF'S PREHEARING STATEMENT  
DOCKET NOS. 970657-WS & 980261-WS

Charlotte County has stated it owns and would be used by it to serve the area. As to Charlotte County's ability to provide water service, it appears that the County is not ready, willing, or able to serve since it has contracted with Lake Suzy for Lake Suzy to provide water service to the area.

**ISSUE 5:** Is there a duplication of service by FWSC for the territory to which Lake Suzy seeks to provide service in DeSoto County?

**POSITION:** The information gathered at this time indicates that DeSoto County has granted a franchise to FWSC that overlaps the territory requested by Lake Suzy in DeSoto County. However, additional evidence is required to determine the exact method of delivering such service by FWSC and the extent to which it duplicates the area requested by Lake Suzy.

**ISSUE 6:** Is it in the public interest for the Commission to grant Lake Suzy's/FWSC's application?

**POSITION:** The determination of this issue is dependent upon the resolution of the other issues, and as such, staff has no position pending further development of the record.

**ISSUE 7:** What rates and charges should apply to customers of the utility in Charlotte and DeSoto Counties?

**POSITION:** No position pending a decision in Issue 6.

**ISSUE 8:** Are Lake Suzy's water and wastewater facilities and land functionally related to each other such that they constitute a single system whose service transverses county boundaries?

**POSITION:** Yes, Lake Suzy's water lines are projected to cross the DeSoto County line making the water system jurisdictional in accordance with Section 361.171(7), Florida Statutes. Lake Suzy's

COMMISSION STAFF'S PREHEARING STATEMENT  
DOCKET NOS. 970657-WS & 980261-WS

wastewater facilities are functionally related to its water facilities, both operationally and administratively. These facilities will constitute a single system whose service transverses county boundaries if the Commission grants Lake Suzy's application.

LEGAL ISSUE

**ISSUE 9:** What legal authority does the Commission have in this proceeding to make a determination of the rights and duties of the parties to the service agreement to which FWSC and Charlotte County Utilities are successor utilities?

**POSITION:** Pursuant to Section 367.045, Florida Statutes, in deciding whether to grant a utility's application, the Commission must determine if the utility has the financial and technical ability and capacity to serve the requested area. While the Commission does not have the legal authority to resolve contractual disputes between parties to the contract, the Commission does have the authority to review that contract and reach its own conclusions regarding the rights and duties of the parties if a utility relies upon it as proof of its financial or technical ability or capacity to serve an area.

E. Stipulated Issues

There are no issues that have been stipulated at this time.

F. Pending Matters

There are no matters pending at this time.

G. Requirements That Cannot Be Complied With

There are no requirements of Order No. PSC-99-2047-PCO-WS that cannot be complied with at this time.

COMMISSION STAFF'S PREHEARING STATEMENT  
DOCKET NOS. 970657-WS & 980261-WS

A handwritten signature in cursive script that reads "Tim Vaccaro". The signature is written in black ink and is positioned above a horizontal line.

TIM VACCARO, SENIOR ATTORNEY

FLORIDA PUBLIC SERVICE COMMISSION  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
Telephone No.: (850) 413-6199  
Facsimile No.: (850) 413-6250

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for  
certificate to operate a water  
and wastewater utility in  
Charlotte and DeSoto Counties by  
Lake Suzy Utilities, Inc.

DOCKET NO. 970657-WS

In re: Application for  
amendment of Certificates Nos.  
570-W and 496-S to add territory  
in Charlotte County by Florida  
Water Services Corporation.

DOCKET NO. 980261-WS

ISSUED:

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing  
COMMISSION STAFF'S PREHEARING STATEMENT has been furnished by U.S.  
Mail, on this 3rd day of January, 2000, to the following:

Charlotte County,  
c/o John Marks, III, Esquire  
215 S. Monroe St. #130  
Tallahassee, FL 32301

Lake Suzy Utilities, Inc.  
c/o Marty Friedman, Esquire  
Rose, Sundstrom & Bentley  
2548 Blairstone Pines Drive  
Tallahassee, FL 32301

Haus Development, Inc.  
c/o Ms. Charlotte Sopko, Pres.  
P.O. Box 3024  
Port Charlotte, FL 33949

Florida Water Services Corp.  
c/o Matthew J. Feil, Esquire  
1000 Color Place  
Apopka, FL 32703

Anthony P. Pires, Jr., Esquire  
801 Laurel Oak Dr.  
Ste. 710  
Naples, FL 34108



TIM VACCARO, SENIOR ATTORNEY  
FLORIDA PUBLIC SERVICE COMMISSION  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
Telephone No.: (850) 413-6199  
Facsimile No.: (850) 413-6250